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Statement before Judiciary Committee re: Raised Bill No.1211

To: Members of the Judiciary Committee

My name is Russell London, and I am an Attorney at London & London, a law firm located in Newington, Connecticut. I have been practicing law for over 20 years now, and have a great deal of experience in both Superior and Small Claims Courts in Connecticut.

I am here in support of Raised Bill No. 1211 (An Act Concerning Post Judgment Interest). This bill is meant to clarify the language in Conn. Gen. Statutes Sec. 52-356d(e) to ensure that whenever an installment payment order is issued by the court, the prevailing party is entitled to be compensated for the time delay in getting paid its judgment balance over time. Moreover, by enacting this bill, it would reaffirm equal treatment for all judgment creditors and debtors.

Everyone in this room, I suspect, has at some point either lent money or borrowed money from some one else. If you lent someone money and the person never paid you back, although they promised that they would, I bet that you would not like it. Moreover, if you were now told that you had to wait several years to get paid back, you would expect some sort of additional compensation; otherwise, you would feel robbed and taken advantage of.

Not surprisingly, for almost 20 years and up until recently, it had universally been accepted that if one obtained a judgment in Connecticut where the court required the prevailing party to accept payments on a judgment over a period time, the prevailing party was entitled to post-judgment, statutory interest for this delay in getting paid back its money. (I have attached to my testimony a copy of the pertinent section of the 2005 Small Claims Handbook, along with a sample, redacted small claims judgment notice, and a prior wage execution form.)

Around October 2009, the judicial department unilaterally, without any public hearings, revised its wage execution and bank execution forms (JD-CV-3 and JD-CV-24.). A new box was added, which now reads "Check if applicable, Post-Judgment Interest was ordered by the Court." These forms, unfortunately, did not distinguish between cases where installment orders have been entered, as opposed to where lump sum awards had been granted.

The adoption of these revised forms has had a pronounced effect, essentially placing in doubt the amount owed on tens of thousands of default judgments in Connecticut where installment payments had been previously ordered by the court. This is because, inconsistently, the Court's own prescribed order form for default judgments (JD-CV-50 - A copy which is attached hereto) has no specific section on it that addresses an award of post-judgment interest. Interest was always assumed as granted on installment orders. Now that the judicial department has issued new post-judgment execution forms that specifically spike out this issue, it has created ambiguity and confusion.

To make matters worse, the Centralized Small Claims office in 2010, without any new decision or new law regarding installment orders, advised small claims magistrates that they had complete discretion on whether or not to award post-judgment interest and at whatever rate they chose. The result of these new instructions has led to disparity of treatment within our court system. Magistrates are now deciding whether or not to award post-judgment interest based upon their own particular frame of mind or personal biases regarding money judgments, as opposed to the requirements under Conn. Gen. Stat. Sect. 52-356d(e).

We are currently seeing post Judgment Interest awards being entered all over the board, ranging from all points between 0 to 10% with no sense of uniformity of treatment. This is particularly troubling especially where defendants with substantially similar situations are treated drastically different with respect to the having to pay back a judgment award, some with interest, some with some interest, and some with no interest at all. Where is the equal treatment under the law?

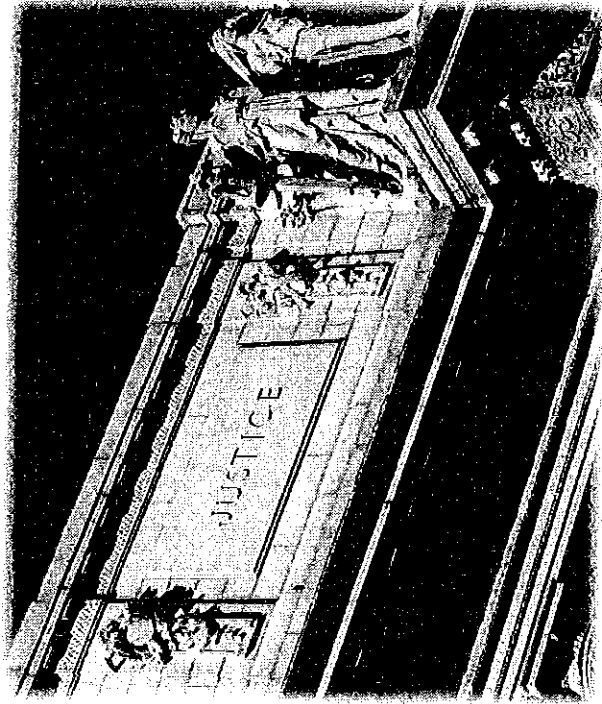
Accordingly, I support Bill 1211. It is my view that this bill is now needed to clarify Section 52-356d(e) and to maintain the intent of the legislature and keep consistent with the historical practice that when someone who is damaged seeks redress in our courts and is subsequently awarded a judgment, that person shall be compensated for the time value of money if the court orders the judgment to be paid back over a period time. The judgment creditor has already been injured by loss of income as a result of the debtor's failure to pay the underlying obligation. To not allow an award of post-judgment interest further injures the judgment creditor and incentivizes defendants not to pay their judgment debts.

In sum, the award of post-judgment interest on money judgments to be paid in installments over time is essential for the orderly operation of commerce in our state. To argue otherwise, makes no sense and rewards those who do not pay their judgment debts with potentially interest-free loans at the expense of the judgment creditor. Without protecting those that lend and/or extend credit to consumers and small businesses in Connecticut, who would want to, or who could afford to do business in our state?

If any one requires any additional information or has any questions, I would be happy to answer those questions and discuss those matters further. Thank you.


Russell London

The Small Claims Process



State of Connecticut Judicial Branch
Superior Court
www.jud.state.ct.us



Procedure for obtaining an execution:

- (a) Go to the small claims clerk's office to complete and file an application for an execution. (See samples of wage, bank and property executions appearing at the end of this pamphlet in Appendix V.)
- (b) To file an application, you will need all the information shown on the **Notice of Judgment** form, plus an accurate record of payments made (if any) by the debtor up to the time you seek the execution.
- (c) Once an execution is issued and returned to you, it is your responsibility to arrange for a state marshal or other proper officer to serve the execution and to provide the officer with the information he or she will need to be successful in recovering the money owed you. Such information may include the debtor's current address, bank, or employer. (A list of state marshals is posted on the **Judicial Branch** website at: www.jud.state.ct.us. The list may also be viewed at any clerk's office.)

Can I collect the costs incurred in obtaining the judgment and postjudgment interest?

Yes. Pursuant to the Connecticut General Statutes, the judgment creditor is entitled to collect all costs and statutory fees incurred in obtaining the judgment and postjudgment interest.

Postjudgment interest continues to accrue until the debt is satisfied in full.

If an execution is issued and served, the amount of postjudgment interest due will be calculated by the officer who served the execution.



State of Connecticut - Superior Court
Centralized Small Claims
80 Washington Street
Hartford, CT 06106

Toll Free In Connecticut (866) 383-5927

Fax: (860) 756-7805

Local Hartford Area (860) 756-7800

www.jud.ct.gov

November 2, 2009

Notice of Judgment or Disposition

RE: Docket #: ~~0000000000~~
Defendant

On 08/21/2008 Judgment for the Plaintiff after Default without Hearing in Damages

THE COURT FOUND JUDGMENT IN FAVOR OF THE PLAINTIFF(S). This means that the Defendant(s) lost the case and must pay the Damages and Costs as follows:

The defendant(s) owes \$3,168.11 Damages and \$35.00 Costs for a total of

\$3,203.11

Payments of \$35.00 Weekly starting on 9/12/2008 have been ordered by the court. This means that, starting on the above date, the defendant(s) must pay the above amount Weekly.

**DO NOT SEND ANY PAYMENTS TO THE COURT.
IF PAYMENTS ARE NOT MADE AS ORDERED YOUR WAGES, BANK ACCOUNT OR OTHER PROPERTY MAY BE ATTACHED. IF YOU HAVE ANY QUESTIONS CALL OR VISIT THE SMALL CLAIMS CLERK AT THE ADDRESS ABOVE.**

Judgment was entered for the Plaintiff against you. It is important that you read this notice carefully.

1) You are obligated to pay the amount shown above to the Plaintiff or the Plaintiff's attorney (address below) in the manner indicated. If you fail to do so by the date or dates shown the Plaintiff is entitled to seek an EXECUTION against you on this judgment.

2) An EXECUTION is an order to pay the debt owed the plaintiff as well as the marshal's fees. If an order for payments was entered against you, your failure to make these payments may result in a WAGE EXECUTION. A wage execution requires your employer to deduct a portion of the debt owed from your paycheck until the debt and the marshal's fees are paid.

3) As long as you pay the judgment in accordance with the court's order no wage execution will be granted by the court. If there is a serious reason why you cannot pay the judgment in the manner ordered by the court, you can request a change in the terms of payment. You should contact the clerk if this becomes necessary.

4) Please be advised that postjudgment interest continues to accrue until the debt is satisfied in full.

Payments to be made to:

WAGE EXECUTION PROCEEDINGS APPLICATION, ORDER, EXECUTION

JD-CV-3 Rev. 1-91
Gen. Stat. § 31-58(j), 52-381a, 52-385d(a)
29 U.S.C. 208(a)(1)

STATE OF CONNECTICUT SUPERIOR COURT

EMPLOYER: SEE PAGE 2 FOR INSTRUCTIONS



INSTRUCTIONS CLERK

1. Issue execution by signing original and 2 copies.
2. Retain one copy for court file
3. Enter any court ordered limitation at the bottom of section II on page 2.

SHERIFF

1. Leave 2 signed copies with employer.
2. Make return on signed original.
3. Leave 1 copy of Modification and Exemption Claim form (JD-CV-3a) with employer and fill in "Date of Service" on form.

JUDGMENT CREDITOR OR ATTORNEY

1. Prepare original and four copies.
2. Attach form JD-CV-3a to one copy of this form.
3. Present original and 3 copies to clerk of court.
4. Retain one copy for your file.

NAME AND MAILING ADDRESS OF JUDGMENT CREDITOR OR ATTORNEY
(To be completed by Plaintiff)

ADDRESS OF COURT (Number, street, and town.) <input type="checkbox"/> G.A. <input type="checkbox"/> J.D. <input type="checkbox"/> HOUSING		DATE OF JUDGMENT	DOCKET NUMBER
(Fold) AMOUNT OF WEEKLY PAYMENTS ORDERED (Employers must pay amount of execution calculated on page 2 of this form)		COMMENCEMENT DATE	TOTAL AMOUNT PAID TO DATE
\$		\$	DATE OF LAST PAYMENT
NAME(S) OF JUDGMENT CREDITOR(S)	OF (Street and Town)	NAME(S) OF JUDGMENT DEBTOR(S)	OF (Street and Town)
EMPLOYER OF JUDGMENT DEBTOR (If known)	OF (Street and Town)	TELEPHONE NO.	
1. AMOUNT OF JUDGMENT (In words) (Including damages and, where applicable, prejudgment interest and attorney fees)		DOLLARS	\$
2. AMOUNT OF COSTS IN OBTAINING JUDGMENT (In words)		DOLLARS	\$
3. TOTAL JUDGMENT AND COSTS (In words) (Add lines 1 and 2)		DOLLARS	\$
4. TOTAL PAID ON ACCOUNT (In words)		DOLLARS	\$
5. TOTAL UNPAID JUDGMENT (In words) (Subtract line 4 from line 3)		DOLLARS	\$
6. APPLICATION FEE FOR WAGE EXECUTION (In words) (If not waived by the court)		DOLLARS	\$
7. TOTAL OF LINES 5 AND 6 (In words)		DOLLARS	\$
SIGNED (Judgment Creditor or Attorney)		DATE APPLICATION SIGNED	
ADDRESS OF PERSON SIGNING		TELEPHONE NO.	
<p>EXECUTION</p> <p>To: Any Proper Officer</p> <p>WHEREAS the above-named Judgment Creditor(s) recovered judgment against the above-named Judgment Debtor(s) for the above Amount of Judgment, as appears of record, whereof execution remains to be done on the Total Shown in line 7 above, AND WHEREAS, pursuant to statute, the said court entered an order that said judgment be paid in weekly payments, AND WHEREAS, the said Judgment Debtor(s) failed to comply with said order for weekly payments, as appears of record by application of said Judgment Creditor(s) moving that this execution issue on said Total in line 7 above.</p> <p>These are, therefore, by authority of the State of Connecticut, to command you, that of any amount of any debt accruing by reason of personal services due any said Judgment Debtor as may not exceed the Amount of Execution calculated on the page 2 of this form, within your precincts, you cause to be levied, paid, and satisfied unto the said Judgment Creditor(s), with interest from the said Date of Judgment on the Total in line 5 above, to the date when this execution is satisfied, and your own fees.</p> <p>Make service hereof within one year of this date, and due return hereof with your doings thereon, within thirty days from satisfaction hereof.</p>			
SIGNED (Assistant Clerk of said court)		ON (Date)	

NOTICE OF JUDGMENT AND ORDER FOR

WEEKLY PAYMENTS

JD-CV-50 Rev. 10-99

P.B. § 17-23, et seq.

INSTRUCTIONS TO CLERK

**Mail copy of this notice and order to plaintiff/plaintiff's attorney
and retain the original in the court file.

STATE OF CONNECTICUT

SUPERIOR COURT

INSTRUCTIONS TO PLAINTIFF/PLAINTIFF'S ATTORNEY

1. Complete Section I.
2. Complete "PAYABLE TO" line in Section II by filing in the name and address of the person to whom payments are to be made.
3. After notification of judgment send copy to Defendant(s) and return original to Clerk's Office with the certification below completed (Section III)

COURT USE ONLY

RETJGOR

DOCKET NO.

Judicial Housing

District Session

G.A. No.

ADDRESS OF COURT (No., street, town, and zip code)

20 Franklin Square, New Britain, CT 06051

NAME OF CASE (Plaintiff v. Defendant)

NAME(S) OF ALL DEFENDANT(S) AGAINST WHOM JUDGMENT WAS RENDERED

SECTION II - NOTICE TO ALL PARTIES (To be completed by clerk)

The following judgment may be enforced twenty-one days after the clerk receives a certification that a copy of this notice was served on each judgment debtor (defendant).

JUDGMENT

After examination of the affidavits on file, the court finds that the above-named defendant(s) is/are not in the military or naval service and that there is owed to the Plaintiff(s) the following:

1.	Amount Due On Claims.....	\$5,946.72
2.	Interest.....	\$0.00
3.	Reasonable Attorney's Fees.....	\$0.00
4.	Other Lawful Charges.....	\$0.00
5.	TOTAL AMOUNT OF JUDGMENT	
	(Total of lines 1-4).....	\$5,946.72
6.	Plaintiff's Costs	\$372.60
7.	TOTAL AMOUNT OF JUDGMENT	
	(Total of lines 5 and 6)	\$6,319.32

Judgment is rendered for the Plaintiff's to recover the Total Amount of Judgment from the above-named Defendant(s).
It is further ordered that the Defendant(s) against whom judgment is entered make weekly payments as follows:

WEEKLY PAYMENTS	AMOUNT OF WEEKLY PAYMENT	DATE FIRST PAYMENT DUE
	PAYMENT TO (Name and address of person to which payments are to be made) London & London, 48 Christian Lane, Newington, CT 06111	
BY THE COURT (Name of Judge)	SIGNED (Judge/Assistant Clerk)	DATE SIGNED

SECTION III - CERTIFICATION OF SERVICE OF NOTICE AND JUDGMENT TO ALL PARTIES

This is to certify that a copy of this Notice and Judgment has been delivered/mailed via U.S. Mail, postage prepaid to the Defendants named below (Enter name(s) and address(es) of Defendant(s)).

[REDACTED], 50 [REDACTED]

SIGNED (Plaintiff/Attorney for Plaintiff)	DATE SIGNED	DATE DELIVERED/MAILED
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